

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2372, AS REPORTED
OFFERED BY MR. BOEHLERT OF NEW YORK

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Private Property
3 Rights Implementation Act of 2000”.

4 SEC. 2. UNITED STATES AS DEFENDANT.

5 Section 1346 of title 28, United States Code, is
6 amended by adding at the end the following:

7 “(h)(1) Any claim brought under subsection (a) that
8 is founded upon a property right or privilege secured by
9 the Constitution, but was allegedly infringed or taken by
10 the United States, shall be ripe for adjudication upon a
11 final decision rendered by the United States, that causes
12 actual and concrete injury to the party seeking redress.

13 “(2) For purposes of this subsection, a final decision
14 exists if—

15 “(A) the United States makes a definitive deci-
16 sion regarding the extent of permissible uses on the
17 property that has been allegedly infringed or taken;
18 and

19 “(B) one meaningful application, as defined by
20 the relevant department or agency, to use the prop-

1 erty has been submitted but denied, and the party
2 seeking redress has applied for but is denied one ap-
3 peal or waiver, where the applicable law of the
4 United States provides a mechanism for appeal to or
5 waiver by an administrative agency.

6 The party seeking redress shall not be required to apply
7 for an appeal or waiver described in subparagraph (B) if
8 no such appeal or waiver is available or if such an appeal
9 or waiver would be futile.”.

10 **SEC. 3. JURISDICTION OF COURT OF FEDERAL CLAIMS.**

11 Section 1491(a) of title 28, United States Code, is
12 amended by adding at the end the following:

13 “(3) Any claim brought under this subsection found-
14 ed upon a property right or privilege secured by the Con-
15 stitution, but allegedly infringed or taken by the United
16 States, shall be ripe for adjudication upon a final decision
17 rendered by the United States, that causes actual and con-
18 crete injury to the party seeking redress. For purposes of
19 this paragraph, a final decision exists if—

20 “(A) the United States makes a definitive deci-
21 sion regarding the extent of permissible uses on the
22 property that has been allegedly infringed or taken;
23 and

24 “(B) one meaningful application, as defined by
25 the relevant department or agency, to use the prop-

1 erty has been submitted but denied, and the party
2 seeking redress has applied for but is denied one ap-
3 peal or waiver, where the applicable law of the
4 United States provides a mechanism for appeal or
5 waiver.

6 The party seeking redress shall not be required to apply
7 for an appeal or waiver described in subparagraph (B) if
8 no such appeal or waiver is available or if such an appeal
9 or waiver would be futile.”.

10 **SEC. 4. EFFECTIVE DATE.**

11 The amendments made by this Act shall apply to ac-
12 tions commenced on or after the 120th day after the date
13 of the enactment of this Act.